

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

[Signature]
Paper No. 20

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U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

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OCT 28 2004

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENJI YOSHIOKA

Appeal No. 2004-1639
Application No. 09/534,441

FAXED

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PAT & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

ON BRIEF

Before HAIRSTON, JERRY SMITH, and BLANKENSHIP, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 26.

The disclosed invention relates to an emergency informing system for a vehicle that operates with a wireless telephone.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

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DECISION ON APPEAL

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The disclosed invention relates to an emergency informing system for a vehicle that operates with a wireless telephone.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

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1. An emergency informing apparatus for a vehicle comprising:

position detecting means for detecting a position of said emergency informing apparatus in response to a command signal;

data generation means including storing means for generating emergency data including at least identification data of said vehicle from said storing means, called party data from said storing means, and said position in response to said command signal;

wireless telephone communication means including:

emergency communicating means for making a call with said called party data and transmitting said emergency data to a called party indicated by said called party data in response to said command signal; and

ordinary communication means for providing telephone communication with a desired party in response to a calling demand and telephone communication with a calling party in response to a call from said calling party; and

controlling means for operating said emergency communication means when said command signal is exist and operating said ordinary communication means when said command signal is nonexistent;

wherein said emergency informing apparatus is mounted to and is part of said vehicle; and

wherein said emergency informing apparatus is configured to enable said wireless telephone communication means to effect ordinary telephone communication without having to disconnect said position detecting means and/or said data generation means.

The references relied on by the examiner are:

Tendler	5,555,286	Sept. 10, 1996
Tognazzini	5,914,675	June 22, 1999

Claims 1 through 17 and 19 through 26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Tendler.

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Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Tendler in view of Tognazzini.

Reference is made to the briefs (paper numbers 15 and 17) and the answer (paper number 16) for the respective positions of the appellant and the examiner.

OPINION

We have carefully considered the entire record before us, and we will sustain the anticipation rejection of claims 1 through 17 and 19 through 23, and reverse the anticipation rejection of claims 24 through 26 and the obviousness rejection of claim 18.

Tendler, like the disclosed and claimed invention, discloses a wireless telephone 10 that operates in conjunction with an emergency vehicle location module (EVLS) 20 (column 5, lines 50 through 55). Appellant's argument (brief, page 8) to the contrary notwithstanding, the EVLS control module 20 operates as a controller to permit the wireless telephone to operate as a wireless telephone when a command signal (e.g., one of the command signals 40 through 52 has not been presented as an input to the module 20) is "inexistent," and to permit the wireless telephone to operate as an emergency communication system when one of the noted commands is in a state of "exist" (column 2, lines 41 through 67; column 6, line 66 through column 7, line 58) or the operator of the

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wireless telephone dials 911 (column 2, lines 41 through 59). With respect to appellant's "off-hook" arguments (brief, pages 8 and 9), the wireless telephone in Tendler will go off hook to make a normal telephone call, and, if 991 is dialed, then the dialer/activation detector 24 in the module 20 will create a special off hook to cause the intervention of the module in the emergency call (column 2, lines 41 through 50; column 6, line 66 through column 7, line 6). Thus, the anticipation rejection of independent claims 1, 9, 17 and 23 is sustained based upon the foregoing and appellant's grouping of the claims (brief, page 6).

The anticipation rejection of claims 2, 10 and 20 is sustained because Tendler discloses several interfaces (e.g., the interface 28 to the GPS 26 and the optional remote activation telephone number & activation code interface).

The anticipation rejection of claims 3, 11 and 21 is sustained because the noted activation code input to the wireless telephone is converted for use in the wireless telephone.

The anticipation rejection of claims 5 through 8, 13 through 16 and 22 is sustained because wireless telephones operate with an accessory called earphones.

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The anticipation rejection of claims 4, 12 and 19 is sustained because appellant has not presented any patentability arguments for these claims.

The anticipation rejection of claims 24 through 26 is reversed because we agree with appellant's argument (brief, page 8) that Tendler does not "disconnect" a call in progress when an emergency is detected.

Turning to the obviousness rejection of claim 18, we agree with the appellant's argument (brief, page 12) that neither Tendler nor Tognazzini discloses a control unit that "disconnects" an ordinary call in favor of an emergency call. Accordingly, the obviousness rejection of claim 18 is reversed.

DECISION

The decision of the examiner rejecting claims 1 through 17 and 19 through 26 under 35 U.S.C. § 102(e) is sustained as to claims 1 through 17 and 19 through 23, and is reversed as to claims 24 through 26. The decision of the examiner rejecting claim 18 under 35 U.S.C. § 103(a) is reversed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

KENNETH W. HAIRSTON
Administrative Patent Judge

Administrative Page

Administrative Patent Judge

Jerry Smith
JERRY SMITH

JERRY SMITH

Administrative Patent Judge

HOWARD B. BLANKENSHTEIN

HOWARD B. BERKMAN, JR.
Administrative Patent Judge

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